

<b>DATE OF DETERMINATION</b>	13 May 2025
<b>DATE OF PANEL DECISION</b>	13 May 2025
<b>DATE OF PANEL BRIEFING</b>	6 May 2025
<b>PANEL MEMBERS</b>	Alison McCabe (Chair), Amanda Wetzel, Doug Eaton, Rachel Stanton
<b>APOLOGIES</b>	Roberta Ryan and Tony McNamara
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 29 April 2025.

#### **MATTER DETERMINED**

PPSHCC-281 – Central Coast – DA/161/2024 at 305 Pacific Highway, Lake Munmorah 2589 (as described in Schedule 1)

#### **PANEL CONSIDERATION AND DECISION**

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel initially held a public determination meeting on the 25<sup>th</sup> of March 2025. At that time the Council assessment report recommended deferral of the application for further information to address:

1. Groundwater
2. Ongoing management and maintenance of conservation land
3. Provision of sewage and stormwater drainage
4. Flooding
5. Biodiversity – clarification regarding mapped area
6. Construction traffic management

The Panel agreed to defer the determination for the above matters to be addressed and seek a further supplementary report from Council. The applicant has provided additional information to address the above matters, which has been considered by both Council and the Panel.

Council prepared a further supplementary report dated 29 April 2025 which recommended approval of the application. This report has been considered by the Panel. A further memo from Council dated 6 May 2025 regarding changes to recommended conditions has also been considered by the Panel.

The Panel held a final briefing with Council and the applicant. Submitters were invited to have a briefing but chose to listen to the applicant briefing.

The Panel, in their deliberation, has considered the provisions of clause 4.1G(4)(a) and (b) of the CCLEP 2022 and, subject to conditions, is satisfied that the subdivision will facilitate the management and protection of the environmental value of the land and that the C2 zoned land will not be used for the purpose of residential accommodation.

The Panel notes that clause 4.1G Minimum Lot Size for certain zones was amended under CCLEP 2022 (Amendment No. 8) after the Panel's final briefing. The Panel has considered a further email dated 12 May 2025 outlining the changes to the clause.

The Panel has considered the provisions of the clause as amended and considers that the development satisfies the clause.

The Panel has considered the obligations of the Biodiversity Certification Agreement, which is required to be registered on title.

The Panel also notes that the ongoing management of the Conservation Lands will ultimately rest with the owners of Pt Lot 1 and Pt Lot 70. The obligations arising from the Biodiversity Certification Agreement will be a matter notified to future land owners prior to purchase.

In the absence of a public authority owning the Conservation Lands, they will need to remain in private ownership with the land owner responsible for the management and maintenance of the lands in accordance with the Biodiversity Certification Agreement.

The Panel has included a condition that, prior to release of the final subdivision certificate, a report be prepared on the progress of the implementation of the Biodiversity Management Plan. A copy of the report is to be submitted to Council.

The Panel also considered a number of submissions regarding potential traffic impacts. To this end, the Panel notes that the proposal involves upgrades to existing infrastructure set out in the local and state Voluntary Planning Agreements, and that the area is one planned for growth.

A Construction Traffic Management Plan has been prepared and considered. The Panel has added a requirement for the applicant to explore opportunities with Transport for NSW (TfNSW) for a temporary construction access from the Pacific Highway. The Panel notes that the decision as to whether to permit access will rest wholly with TfNSW.

The Panel is satisfied that the proposal is consistent with the broader strategic and policy framework and is an area identified for urban release. The impact of the development can be appropriately managed and mitigated. The development will result in the protection of environmentally sensitive lands in accordance with the Biodiversity Conservation Agreement.

The proposal has merit and, subject to conditions, could be approved.

### **Development application**

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* subject to condition at Schedule 2.

The decision was unanimous.

### **REASONS FOR THE DECISION**

The Panel determined to approve the application for the following reasons:

- (i) The development is consistent with the strategic policy framework.
- (ii) The development will provide for much needed housing to meet demand in the region.
- (iii) The development will provide protection for environmentally sensitive lands.

### **CONDITIONS**

The development application was approved subject to the conditions at Schedule 2. The conditions were amended from those attached to the memo dated 6 May 2025 as follows:

1. Amend Condition 3.5 to require discussions with TfNSW regarding options for Temporary Construction Access from Pacific Highway.
2. Amend Condition 5.2 to reference exhibited State Voluntary Planning Agreement (VPA).
3. Amend Condition 5.3 to reference date of Local VPA.
4. Amend Condition 5.14 to reference lot and area.


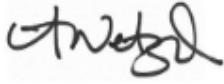


5. Amend Condition 5.18 to reference Roads Act 1993.
6. Add Condition 5.30 requiring reporting on the implementation of the BMP prior to release of the final Subdivision Certificate.

## CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- The efficacy of the traffic assessment and the reliance on data obtained during the period affected by COVID.
- The impacts associated with the proposed collector road on the existing residential neighbourhoods located east and west of the development.
- The impacts on existing neighbourhoods and nearby villages associated with the proposed changes to the Pacific Highway intersections at Kangaroo Road and Tall Timbers Road including impacts on emergency access.
- The lack of pedestrian facilities associated with the development and within the Pacific Highway.
- The lack of local infrastructure and services to service the new development.
- The impacts to wildlife and the ecological values of the area.
- The health implications related to allowing additional housing in proximity to coal ash dams.

The Panel considers that concerns raised by the community have been adequately addressed in the assessment and supplementary reports.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Amanda Wetzel
 Rachel Stanton	 Doug Eaton

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-281 – Central Coast – DA/161/2024
2	PROPOSED DEVELOPMENT	Subdivision
3	STREET ADDRESS	285, 295, 305, 315 and 325 Pacific Highway, Lake Munmorah 2589
4	APPLICANT/OWNER	Barker Ryan Stewart Pty Limited Rose Living Pty Ltd / Alda Properties Pty Ltd (Lake Munmorah) Urban Land Redevelopment Pty Ltd / Robyn and Roxanne Becker
5	TYPE OF REGIONAL DEVELOPMENT	<b>Coastal Development - Subdivision</b>
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Planning Systems) 2021</li> <li>State Environmental Planning Policy (Transport and infrastructure) 2021</li> <li>Central Coast Local Environmental Plan 2022</li> </ul> </li> <li>Draft environmental planning instruments: Amendment No. 8</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Central Coast Development Control Plan 2022</li> </ul> </li> <li>Planning agreements: Local Voluntary Planning Agreement (VPA) and draft State VPA</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i></li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>Public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council Assessment Report: 18 March 2025</li> <li>Council Supplementary Assessment Report: 29 April 2025</li> <li>Council Memo and Amended Conditions: 6 May 2025</li> <li>Council email: 12 May 2025</li> <li>Verbal submissions at the public meeting 25 March 2025: <ul style="list-style-type: none"> <li>Kerry Byers on behalf of the Chain Valley Bay Progress Association</li> <li>Council assessment officer – Nathan Burr</li> <li>On behalf of the applicant – Ian Stewart, Scott Brisbin, William Clark, Louise Camenzuli, Ivan Brcic, Peter Francis, Ian Piper</li> </ul> </li> <li>Written submissions during public exhibition: 23</li> <li>Total number of unique submissions received by way of objection: 23</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Preliminary Briefing: 17 April 2024 <ul style="list-style-type: none"> <li><u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara, Greg Flynn</li> <li><u>Council assessment staff</u>: Alexandra Hafner, Salli Pendergast</li> <li><u>Applicant representatives</u>: Ian Stewart, Scott Brisbin, Joel Shanahan</li> <li><u>Department</u>: Leanne Harris</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>• Briefing: 19 June 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara, Greg Flynn, Tony Tuxworth</li> <li>○ <u>Council assessment staff</u>: Alexandra Hafner, Jenny Tattam, Emily Goodworth, Nathan Burr, Danielle Allen</li> <li>○ <u>Applicant representatives</u>: Ian Stewart, Scott Brisbin, William Clark, Peter Francis, Bryan Rose, Stuart Rose, Tibor Grubits, Joel Shanahan</li> <li>○ <u>Department</u>: Leanne Harris, Holly McCann</li> </ul> </li> <li>• Site inspection: <ul style="list-style-type: none"> <li>○ Alison McCabe: 12 October 2024</li> <li>○ Doug Eaton: 7 February 2025</li> </ul> </li> <li>• Council status briefing: 17 February 2025 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara, Doug Eaton, Rachel Stanton</li> <li>○ <u>Council assessment staff</u>: Emily Goodworth, Nathan Burr, Brendan</li> <li>○ <u>Department</u>: Leanne Harris, Holly McCann</li> </ul> </li> <li>• Briefing to discuss the Council's recommendation: 25 March 2025 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Amanda Wetzel, Doug Eaton, Rachel Stanton</li> <li>○ <u>Council assessment staff</u>: Nathan Burr, Emily Goodworth, Brendan Dee</li> <li>○ <u>Department</u>: Leanne Harris, Holly McCann</li> </ul> </li> <li>• Final briefing to discuss the Council's recommendation: 6 May 2025 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Amanda Wetzel, Doug Eaton, Rachel Stanton</li> <li>○ <u>Council assessment staff</u>: Nathan Burr, Emily Goodworth</li> <li>○ <u>Applicant representatives</u>: Ian Stewart, Scott Brisbin, Louise Camenzuli, Ivan Brcic, Peter Francis</li> <li>○ <u>Department</u>: Leanne Harris, Holly McCann</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council supplementary assessment report

## SCHEDULE 2

### CONDITIONS OF CONSENT DA/161/2024

#### 1. PARAMETERS OF THIS CONSENT

- 1.1. Implement the development substantially in accordance with the plans and supporting documents listed below as submitted by the applicant and to which is affixed a Council stamp "Development Consent" unless modified by any following condition.

**Architectural Plans by:** Barker Ryan Stewart

Drawing	Description	Issue	Date
CC180099	Plan of Subdivision	T	28/2/2025
CC180099-07 Sheets: 001, 002, 011, 021, 031, 041, 051, 061, 101-106, 121, 131-136, 151, 511-516, 611-617, 621-627, 701, 702, 711, 712, 721, 722, 901-922	Concept Civil Engineering Design For Development Application	F	14/4/2025
LDD001-LDD003, LDD401-LDD420, LDD 701, LDD 702	Landscaping Plans (Moir Landscape architects)	F	11/3/2025

#### Supporting Documentation

Document Title	Prepared by	Date
Preliminary Construction Traffic Management Plan	Barker Ryan Stewart	14/4/2025
LETTER REPORT ON CULVERT CONSTRUCTION 285-325 PACIFIC HIGHWAY, LAKE MUNMORAH	Stantec	27/3/2025
Statement of Environmental Effects	Barker Ryan Stewart	March 2025
Arborist Impact Assessment, Rev 03	AEP	19/12/2024
Flora and Fauna Assessment for Tall Timbers Rd Intersection	Wedgetail	20/12/2024

- 1.2 Comply with the General Terms of Approval from the Authorities as listed below and attached as a schedule of this consent.

<b>Government Agency / Department / Authority</b>	<b>Description</b>	<b>Ref No</b>	<b>Date</b>
Rural Fire Service	Bushfire Safety Authority	DA20240307000944-Original-1	12 July 2024
Subsidence Advisory	General Terms of Approval	TSUB24-00115	1 May 2024
Department of Planning and Environment	General Terms of Approval for Integrated Development, <i>National Parks and Wildlife Act 1974</i>	DOC24/194931-31	9 August 2024
Transport for NSW	Guidance for Development	NTH24/00210/003	3 July 2024
AUSGRID	Guidance for Development	TRIM 2017/11/357	14 March 2024

- 1.3 Lodge a completed *Application for Subdivision Works Certificate or Construction Certificate, Roads Act Works Approval and other Development related Civil Works* application form to Council where conditions of this consent require works approval from Council under the *Roads Act 1993* and *Local Government Act 1993*. The completed application form must be accompanied by detailed design drawings, supporting reports and information. Fees in accordance with Council's Fees and Charges will be invoiced to the applicant following lodgement of the application. Fees must be paid prior to Council commencing assessment of the application.
- 1.4 An application for a Subdivision Certificate must be submitted to and approved by the Council prior to endorsement of the plan of subdivision.

## 2. PRIOR TO ISSUE OF ANY SUBDIVISION WORKS CERTIFICATE

- 2.1. All conditions under this section must be met prior to the issue of any Subdivision Works Certificate, unless specified otherwise. A bulk earthworks Subdivision Works Certificate can be approved once conditions 2.2 - 2.8, 2.13 and 2.14(q) are satisfied. The bulk earthworks Subdivision Works Certificate shall not include retaining walls.
- 2.2 Submit to Council's Environment Protection Officer for approval a Construction Environmental Management Plan (CEMP). The CEMP must address all environmental aspects of the development's construction phases and include, but not be limited to, the following:
  - a) Timing and Sequencing Information
  - b) Soil and Water Management Plan



- c) Noise and Vibration Controls
  - d) Dust / air quality controls
  - e) Waste Management
  - f) Environmental Incident Management
  - g) Stabilised entry/exit.
- 2.3 Submit to Council's Environmental Protection Officer for approval an Unexpected Finds Management Plan for the discovery of any asbestos fragments, acid sulphate soils or any other unexpected contamination during any future construction works at the site.
- 2.4 Submit to Council's Environmental Protection Officer for approval a Soil and Water Management Plan in accordance with Section 2.3 of the 'Blue Book' (*Managing Urban Stormwater: Soils and Construction, Landcom, 2004*). The plan shall be prepared by a suitably qualified environmental/civil consultant. Section 9.3 of the Blue Book provides guidance on preparing a Soil and Water Management Plan for medium-density development. (Note: A Soil and Water Management Plan is a more comprehensive document than an Erosion and Sediment Control Plan). All design criteria and calculations used to size soil and water control measures shall be shown, and construction standard drawings are to be provided on each type of soil and water control measure proposed. Sediment basins will not be supported online with watercourse.
- 2.5 No activity is to be carried out on-site until the Subdivision Works Certificate has been issued, other than:
- (a) Site investigation for the preparation of the construction, and / or
  - (b) Implementation of environmental protection measures, such as erosion control and the like that are required by this consent.
- 2.6 Before the issue of a Subdivision Works Certificate, the applicant is to ensure that a waste management plan is prepared in accordance with the EPA's Waste Classification Guidelines and the following requirements before it is provided to and approved by the certifier:
- a) Council's Waste Management Development Control Plan
- The applicant must ensure the waste management plan is referred to in the construction site management plan and kept on-site at all times during construction.
- 2.7 The road signage and pavement marking design drawings identifying parking, other regulatory elements and traffic management facilities must be endorsed by the Local Traffic Committee prior to any installation on site. The road signage and pavement marking design drawings are to be submitted to Council with the *Application for Subdivision Works Certificate or Construction Certificate, Roads Act Works Approval and other Development related Civil Works*.

2.8 Design street lighting in accordance with Australian Standard AS/NZS 1158: *Lighting for roads and public spaces* for category PR4 including the provision of current best practice energy efficient lighting. Designs must detail street light footings, locations in relation to boundaries and infrastructure including offsets from road kerbs and safety barriers. Designs must be submitted to Council for review and comment prior to finalisation of the design and Council providing endorsement as the Public Lighting customer.

2.9 Prior to the Roads Act Works and/or the Subdivision Works Certificate approval, a Concept/Preliminary/Detail Design stage Road Safety Audit for the proposed subdivision prepared by a minimum Level 3 and Level 2 Road Safety Auditors who are registered on the NSW Register of Road Safety Auditors is required to be submitted to the Council. Particular reference is to be made to the following:

- Safe System Approach.
- Safest practicable treatment.
- Safety to all road users (light and heavy vehicles, motorcycles, pedestrians and cyclists).
- Compatibility with adjacent intersections.
- Topography at the site.
- Natural and built environment.

There is opportunity to investigate options and resolve this issue at the Subdivision Works Certificate/Roads Act stage.

No recommendations are to be made in the Road Safety Audit to address any identified deficiencies, particularly for existing public roads. Resolutions of the identified deficiencies are to be carried out in consultation with Council and Council to sign off the corrective actions prior to the issue of any Roads Act Works Approval and/or Subdivision Works Certificate. This condition of consent must be identified in the Audit Report.

2.10 Submit an application to Council under section 305 of the Water Management Act 2000 for a section 307 certificate of compliance. The Application form can be found on Council's website [www.centralcoast.nsw.gov.au](http://www.centralcoast.nsw.gov.au). Early application is recommended.

The section 305 application will result in a section 306 letter of requirements which must be obtained prior to the issue of any Construction Certificate. The requirements letter will outline which requirements must be met prior to each development milestone eg. prior to construction certificate, subdivision works certificate, occupation certificate and/or subdivision certificate.

2.11 Submit to Council a dilapidation report detailing the condition of all Council assets within the vicinity of the development. The report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, street trees, street signs, street lights or any other Council assets

in the vicinity of the development. The dilapidation report will be required to be submitted to Council prior to the issue of the Section 138 Roads Act Works approval or the issue of any construction certificate for works on the site. The dilapidation report may be updated with the approval of Council prior to the commencement of works. The report will be used by Council to establish damage to Council's assets resulting from the development works.

- 2.12 Submit an application to Council or an Registered Certifier for a Subdivision Works Certificate under the *Environmental Planning and Assessment Act 1979*. Where this application is being submitted to Council, use an *Application for Subdivision Works Certificate or Construction Certificate, Roads Act Works Approval and other Development related Civil Works* form.

The application is to be accompanied by detailed design drawings, reports and other documentation prepared by a suitably experienced qualified professional in accordance with Council's *Civil Works Specifications*.

Where the application is submitted to Council, fees in accordance with Council's adopted fees and charges will be invoiced to the applicant following lodgement of the application. Fees must be paid prior to Council commencing assessment of the application.

Design drawings, reports and documentation will be required to address the following works and any related works:

- a) Full width road construction including on both sides of the road kerb and gutter, subsurface drainage, footpath verge formation and stormwater street drainage. The minimum face of kerb to face of kerb carriageway widths are to be:

<b>Road Name/No.</b>	<b>Minimum Width (m).</b>
Road 01, 11 & 13	11.0
Roads 02, 03, 04, 05, 06, 07, 09, 10, 11 & 12	8.0

- b) Construction of 1.5 metre wide reinforced concrete footpath on one side of all roads within the subdivision including kerb ramps.
- c) Construction of 2.5 metre wide reinforced concrete shared path including any signage and pavement marking on one side of road 01 and kerb ramps. Extend the shared path along the south side of the culvert crossing to connect to existing footpath connections provided to the east and west.
- d) Installation of appropriate traffic management facilities/devices at all four-way intersections and back to back curves on Road 01 (Collector Road) and Kemira Road and Chisholm Avenue generally in accordance with plans prepared by Barker Ryan Stewart, Revision A – dated 09/09/2024.

- e) Installation on all new roads of roadside furniture and safety devices as required e.g. Street name signs, fencing, guide posts, chevrons, directional arrows, and/or safety barriers in accordance with Austroads Guides, Transport for NSW Roads and Maritime Services Supplements and Australian Standards.
- f) Design and Construction of the trunk drainage culvert crossings under Road 01 in accordance with Council's Civil Works Specification and Australian Rainfall & Runoff (ARR 2019) to convey up to and including the major 1% AEP design flood event. Appropriate blockage factors shall be applied.

Appropriately sized inlet and outlet energy dissipation/scour protection works shall be provided.

- g) Installation on all new roads of road signage and pavement marking in accordance with Austroads guides, Transport for NSW Roads and Maritime Services Supplements and Australian Standards.
- h) Construction of retaining walls, including details of surface and subsurface drainage required for the retaining wall where indicated on development approval documentation. Retaining wall design must not conflict with existing or proposed services or utilities. Retaining wall designs must be certified by a registered practising Civil or Structural engineer as being in accordance with Australian Standards.
- i) Construction of an industrial/commercial vehicle access crossing that provides suitable maintenance access to water quality treatment basins/Gross Pollutant Treatment facilities.
- j) Road pavement designs. An Investigation and Design report prepared by a practising Geotechnical Engineer must be provided. The pavement design thickness must be determined in accordance with Council's specifications and the following traffic loadings:

<b>Name of Street</b>	<b>Traffic Loading (ESAs)</b>
Road 01, 13	$8 \times 10^6$
Roads 02, 03, 04, 05, 06, 07, 09, 10, 11 & 12	$5 \times 10^5$

- k) Construction of a concrete accessway comprising a minimum 3.0 metre wide reinforced concrete pavement with integral kerb on the low side, 3% reverse cross fall, drainage (including lot drainage) and for proposed lots 58, 61, 62, 64, 65 69, 213, 214, 233, 234, 235, 236, 277, 250 & 258.
- l) Installation of services conduits (including draw wire) for all available services which may include electricity, telecommunications, gas and water within the right

of access or access handle in accordance with the relevant authority's specifications and requirements.

- m) Construction of inter-allotment stormwater drainage where stormwater from individual allotments cannot be discharged directly into the proposed street drainage system or existing street drainage system.
- n) Construction of a secondary stormwater overland flow path capable of conveying the full 1% Annual Exceedance Probability (AEP) flood flow from the Pacific Highway Catchment through lot 200.
- o) Construction of stormwater detention basin/s. The design must limit post development peak flows from the development site to less than or equal to predevelopment peak flows for all storm events up to and including the 1% Annual Exceedance Probability (AEP) storm event. A runoff routing method must be used. A stormwater detention design report including an operation and maintenance plan must accompany the design. The stormwater detention facility is not permitted within drainage easements, and / or secondary flow paths. A safety fence may be required around the facility.
- p) Construction of nutrient and pollution control measures/facilities. Design to be in accordance with Council's *Civil Works Specification Australian Runoff Quality (ARQ) – A guide to WSUD – 2006* and other relevant industry best practice for Water Sensitive Urban Design facilities.

A nutrient and pollution control design report including an operation and maintenance plan must accompany the design.

- q) Construction of earthworks including all excavation and filling including treatment of cut and fill surface for permanent stability. The earthworks design must be endorsed by a practising Geotechnical Engineer or be in accordance with the recommendation of a practising Geotechnical Engineer. The endorsement or recommendations must only be made following an investigation of the site by the practising Geotechnical Engineer.
- r) Adjustment/relocation to services as required.

All detailed design drawings and design reports addressing the above construction items must form part of the Subdivision Works Certificate Application. Subdivision Works must not commence until Council as the Principal Certifier has received a *Notice of Intention to Commence Subdivision, Roads and Stormwater Drainage Works* and a pre-commencement meeting with Council, the Developer and their Contractor has taken place.

- 2.13 Submit to Council a request for approval proposed new road names for each new road within the subdivision. The request is to reference the development application number and a plan showing the location of the proposed roads and the names of the

proposed roads. (Two alternate names to be proposed in accordance with NSW Addressing User Manual.)

### 3. PRIOR TO COMMENCEMENT OF ANY WORKS

- 3.1. All conditions under this section must be met prior to the commencement of any works.
- 3.2. Reclassification of land *The development includes works to Council owned land that is classified as community land under the Local Government Act 1993, being Lot 79 DP 217918. Pursuant to section 30 of the Local Government Act 1993, Council intends to reclassify the community land to operational land. Prior to the commencement of works on Lot 79 DP 217918, the land must be reclassified to operational land through an amendment to the Central Coast Local Environmental Plan 2022.*
- 3.3. No works are to be undertaken within the public road reserve without the prior written approval from Council.

Note 1: Obtain a Roads Act Works Approval by submitting a completed application to Council for a Section 138 Roads Act Works Approval for all works required within the road reserve. The application is to be lodged using an Application for Subdivision Works Certificate or Construction Certificate, Roads Act Works Approval and other Development related Civil Works form.

Note 2: Fees, in accordance with Council's Fees and Charges, will be invoiced to the applicant following lodgement of the application. Fees must be paid Before Council commencing assessment of the application.

The application for a Section 138 Roads Act Works Approval for all works required within the road reserve is to be accompanied by detailed design drawings, reports and other documentation prepared by a suitably experienced qualified professional in accordance with Council's Civil Works Specifications.

Design drawings, reports and documentation will be required to address as a minimum the following works within the road reserve:

Nominate Required Works – Additional items or amended wording may be required to appropriately describe the works

(a) A Round a bout type of intersection/treatment at the intersection of Chisholm Avenue and Tall Timbers Road, in accordance with the latest edition of Austroads Guides to Road Design/Traffic Management and NSW Transport Roads and Maritime Services (RMS) supplements to Austroads Guides if applicable.

(b) Full width road construction (along Chisolm Avenue) including on both sides of the road kerb and channel, subsurface drainage, concrete footpath, verge

formation, stormwater street drainage and VAC reconstruction with transitions where required to facilitate works.

(c) Construction of a concrete shared pathway on the southern side of Chisholm Avenue, 2.5 metres wide, including any end treatments or road crossing treatments, for the full street frontage of the development in name of roads. Extend concrete shared pathway to describe location. Ensure kerb ramps provided opposite.

(d) Construction of a residential vehicle access crossing from the property boundaries within Chisholm Avenue to the kerb including construction of a gutter crossing.

(e) Construction of street storm water drainage including inlet provisions and tail out drainage and scour protection works.

(f) Construction of any works required to transition new works into existing infrastructure and the surrounding land formation.

(h) Installation of roadside furniture and safety devices as required by design e.g. fencing, signage, guide posts, chevrons, directional arrows, and/or safety barriers in accordance with Austroads Guides, NSW Transport Roads and Maritime Services Supplements and Australian Standards and manufacturers requirements.

(i) Construction of kerb ramp(s) at intersections.

(j) Road pavement designs. An Investigation and Design report prepared by a practising Geotechnical Engineer must be provided. The pavement design thickness must be determined in accordance with Council's specifications.

3.4 No works are to be undertaken within the public road reserve (Pacific Highway) without the prior written approval from TfNSW and Central Coast Council.

Note 1: Obtain a Roads Act Works Approval by submitting a completed application to Council for a Section 138 Roads Act Works Approval for all works required within the road reserve. The application is to be lodged using an Application for Subdivision Works Certificate or Construction Certificate, Roads Act Works Approval and other Development related Civil Works form.

Note 2: Fees, in accordance with Council's Fees and Charges, will be invoiced to the applicant following lodgement of the application. Fees must be paid Before Council commencing assessment of the application.

The application for a Section 138 Roads Act Works Approval for all works required within the State classified road reserve is to be accompanied by detailed design drawings, reports and other documentation prepared by a suitably experienced qualified professional in accordance with Council's Civil Works Specifications.

Design drawings, reports and documentation will be required to address as a

minimum the following works within the road reserve:

(a) Upgrade the Traffic Control Signals (TCS) at the intersection of The Pacific Highway and Tall Timbers Road and The Pacific Highway and Kangaroo Avenue intersection to left-in left-out treatment in accordance with the latest edition of Austroads Guides to Road Design/Traffic Management and NSW Transport Roads and Maritime Services (RMS) supplements to Austroads Guides if applicable.

Where works are required on a Classified Road by this condition or a requirement from Transport for NSW (RMS) the Developer is to enter into a Works Authorisation Deed (WAD) with Transport for NSW (Roads and Maritime Services - RMS) Before commencement of the design. Concurrence to the design of the works from Transport for NSW (Roads and Maritime Services (RMS) is required by Council Before approval by Council.

The section 138 Roads Act Works Approval must be issued by Council and all conditions of that approval must be addressed Before occupying and commencing any works in the road reserve.

- 3.5 Prepare a Construction Traffic and Pedestrian Management Plan (CTPMP) for all activities related to works within the site. The plan must be prepared and implemented only by persons with Roads and Maritime Service accreditation for preparing and implementing traffic management plans at work sites.

The CTPMP must describe the proposed construction works, the traffic impacts on the local area and how these impacts will be addressed.

The CTPMP must address, but not be limited to, the following matters:

- Ingress and egress of construction related vehicles to the development site.
- Details of the various vehicle lengths that will be used during construction and the frequency of these movement.
- Use of swept path diagrams to demonstrate how heavy vehicles enter, circulate and exit the site or Works Zone in a forward direction.
- Deliveries to the site, including loading / unloading materials and requirements for work zones along the road frontage to the development site. A Plan is to be included that shows where vehicles stand to load and unload, where construction plant will stand, location of storage areas for equipment, materials and waste, locations of Work Zones (if required) and location of cranes (if required).
- Works Zones if heavy vehicles cannot enter or exit the site in a forward direction.
- Control of pedestrian and vehicular traffic where pre-construction routes are affected.
- Temporary Road Closures.
- Discussion with TfNSW regarding whether option for a Temporary Construction Access from Pacific Highway can be accommodated.

Where the plan identifies that the travel paths of pedestrians and vehicular traffic are proposed to be interrupted or diverted for any construction activity related to works



inside the development site an application must be made to Council for a Road Occupancy Licence. Implementation of traffic management plans that address interruption or diversion of pedestrian and/or vehicular traffic must only take place following receipt of a Road Occupancy Licence from Council or the Roads and Maritime Service where on a classified road.

Where a dedicated delivery vehicle loading and unloading zone is required along the road frontage of the development site a Works Zone Application must be lodged and approved by Council. A minimum of 3 months is required to allow Traffic Committee endorsement and Council approval.

The Construction Traffic and Pedestrian Management Plan must be reviewed and updated during construction of the development to address any changing site conditions.

A copy of the Construction Traffic and Pedestrian Management Plan must be held on site at all times and be made available to Council upon request.

- 3.6 Submit to Council, for approval, details of proposed haulage routes to and from the site. Approval of haulage routes may be subject to the provision of a dilapidation report of all or part of the approved haulage route.
- 3.7 Submit to Council a completed *Notice of Intention to Commence Subdivision, Roads and Stormwater Drainage Works* Form with supporting documentation prior to the commencement of any Subdivision Works Certificate works, Roads Act Works Approval works, or Section 68 Local Government Act Stormwater Drainage Works Approval works. These works are not to commence until a pre-commencement site meeting has been held with Council.
- 3.8 The Construction Environmental Management Plan (CEMP) must address groundwater management during construction, as detailed in the Stantec letter dated 27 March 2025 and Report on Water Quality Monitoring dated 29 January 2024. Groundwater recharge and subsequent discharge flows into the Coastal Wetland mapped under SEPP Resilience and Hazards must match predevelopment quality and quantity, as informed by groundwater monitoring.
- 3.9 Provide evidence to Council that the number and class of species and ecosystem credits specified in the "Order conferring biodiversity certification dated 26 March 2024" have been retired in accordance with the Biodiversity Offsets Scheme and the *Biodiversity Conservation Act 2016*. All Biodiversity Credits must be retired prior to clearing of any native vegetation within the Biodiversity Certification area.
- 3.10 The legend in "Tree Impact Plan" that is part of the engineering set (Ver F, dated 14/04/2025) is to be amended to read "Angophora inopina" to be removed and retained, not "Inopea".

Trees noted in Tree Impact Plan (Ver F, dated 14/04/2025) as "Tree not listed in Arborist Report" are all required to be retained. Prior to commencement of any works, an Arboricultural Impact Assessment is to be provided to Council's Tree Officer for approval detailing measures required to protect these trees. Measures are to be in accordance with *AS 4970-2009 Protection of Trees on Development Sites*.

- 3.11 Tree Retention and Removal is to be as per the "Tree Impact Plan" (Ver F, dated 14/04/2025) and the Arborist Impact Assessment, Rev 03 by AEP, dated 19 December 2024, or as modified by additional plans or reports approved by Council's Ecologist or Tree Assessment Officer under this consent. Prior to the commencement of any works, install temporary or permanent fencing to protect all "Avoided and Conservation Land" and trees to be retained. All fenced conservation areas are to be clearly marked as a "No Go Area" on all plans and fencing itself. No clearing of vegetation, storage of vehicles or machinery, stockpiling, materials storage or unauthorised access is to occur within the fenced conservation area. Prior to commencement of any works, the engaged Arborist must notify Council in writing of compliance with this condition, including where required, providing photos and other evidence within five business days after completing the fencing.
- 3.12 Implement the Biodiversity Management Plan (BMP), by Wedgetail Version 3.0 dated 7 November 2024, approved by NSW DCCEE in association with the Bio certification Order. All mitigation measures identified in the Biodiversity Certification Assessment Report (BCAR), by Kleinfelder, Ver 7.0, dated 09 December 2022 are to be fully implemented.
- 3.13 Prior to commencement of any works associated with the Tall Timbers Road intersection upgrade, implement the mitigation measures outlined in the Flora and Fauna Assessment for Tall Timbers Rd Intersection, by Wedgetail, Rev 2.0, 20 December 2024 and the Arborist Impact Assessment, Rev 03 by AEP, dated 19 December 2024.
- 3.14 All prior to commencement actions specified in the Construction Environmental Management Plan (**CEMP**) approved under this consent must be carried out.
- 3.15 Ensure that all parties / trades working on the site are fully aware of their responsibilities with respect to tree protection conditions.
- 3.16 Tree protection is to be as per the recommendations within sections 6.0, 7.0 and Appendix A of the Arboricultural Impact Assessment, prepared by AEP, dated 19/12/24.

Trees to be retained are to be protected by fencing and / or other accepted protection measures in accordance with Australian Standard AS 4970-2009: Protection of Trees on Development Sites. All required tree protection measures are to be maintained for the duration of construction works.

Erect a 1.8-metre-high chain mesh fence around Tree Protection Zones that must remain intact until construction is completed.

Sign-post fences around Tree Protection Zones to warn of its purpose.

- 3.17 Submit to Council for approval a Groundwater Management and Dewatering Plan indicating how groundwater encountered on site will be managed including turbidity. Where dewatering is required apply to WaterNSW for a Construction Dewatering Approval.

#### 4.DURING WORKS

- 4.1 All conditions under this section must be met during works.
- 4.2 No trees or native vegetation within areas specified as "Avoided Land and Conservation Land" under the Biocertification Order (26 March 2024) are to be impacted by the development. All trees nominated for retention in the approved plans are to be retained and protected. Tree Retention and Removal is to be as per the "Tree Impact Plan" (Ver F, dated 14/04/2025) and the Arborist Impact Assessment, Rev 03 by AEP, dated 19 December 2024, or as modified by additional plans or reports approved by Council's Ecologist or Tree Assessment Officer under this consent. All "Avoided Land and Conservation Land" is to be a NO-GO area where no works are permitted.

All fenced tree protection and conservation areas are to be clearly marked as a "No Go Area" on the fencing itself. No clearing of vegetation, storage of vehicles or machinery, stockpiling, materials storage or unauthorised access is to occur within the fenced conservation area. All required tree and vegetation protection measures are to be maintained for the duration of works.

- 4.3 In relation to the works associated with construction of the Tall Timbers Road intersection, only Trees R1 and R2 (as per Arborist Impact Assessment, Rev 03 by AEP, dated 19 December 2024) are permitted to be removed as part of the development works. No vegetation included on the Biodiversity Values Map can be removed under this approval. During these works, implement the mitigation measures outlined in the Flora and Fauna Assessment for Tall Timbers Rd Intersection, by Wedgetail, Rev 2.0, 20 December 2024 and the Arborist Impact Assessment, Rev 03 by AEP, dated 19 December 2024.
- 4.4 Supervision by a suitably qualified Ecologist is required for all vegetation clearing and construction works. The Ecologist must:
- Mark trees for retention and removal
  - Supervise the installation of fencing around any conservation areas
  - Provide an environmental induction to civil contractors and subcontractors
  - Supervise all vegetation clearing, including removal of habitat trees
- The Ecologist must provide updates in writing to Council's Ecologist upon completion of the above environmental control measures.
- 4.5 Implement the Biodiversity Management Plan (BMP), by Wedgetail Version 3.0 dated 7 November 2024, approved by NSW DCCEEW in association with the Biocertification Order. All mitigation measures identified in the Biodiversity Certification Assessment

Report (BCAR), by Kleinfelder, Ver 7.0, dated 09 December 2022 are to be fully implemented.

- 4.6 While work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

“relic” means any deposit, artefact, object or material evidence that:

- (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
- (b) is of State or local heritage significance; and

“Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains. To ensure the protection of objects of potential significance

- 4.7 Keep a copy of the approved plans on-site for the duration of site works and make the plans available upon request to either the Principal Certifier or an officer of Council.
- 4.8 Place all building materials, plant and equipment on the site of the development during the construction phase of the development so as to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure. Further, no construction work is permitted to be carried out within the road reserve unless the works are associated with a separate approval issued under the provisions of the Roads Act 1993.
- 4.9 All waste generated by the works shall be stored in a manner so that it does not pollute the environment.
- 4.10 All waste generated by the works shall be transport to a facility which is licensed to receive that material.
- 4.11 Any topsoils imported are to be free of weeds before use.
- 4.12 All fill is to be placed on site in such a manner that surface water will not be permanently or temporarily diverted to adjoining land.
- 4.13 No soils to be imported to the subject site except for Virgin Excavated Natural Material (VENM) or Excavated Natural Material (ENM) as defined in Schedule 1 of the Protection of the Environment Operations Act 1997.

- 4.14 All materials other than fill imported to the site for civil works, shall have a resource recovery exemption made under the Protection of the Environment Operations (Waste) Regulation 2014.
- 4.15 Implement dust suppression measures on-site during bulk earthworks to suppress dust generated by vehicles and equipment. Dust must also be suppressed at all other stages of construction in order to comply with the Protection of the Environment Operations Act 1997.
- 4.16 The developer is solely responsible for any costs relating to alterations and extensions of existing roads, drainage, water and sewer infrastructure and other utilities for the proposed development.
- 4.17 Trees to be removed to accommodate for the development as specified in section 6.0 and Appendix A of the Arboricultural Impact Assessment report by AEP dated 19/12/24.
- 4.18 Appoint a Project Arborist (AQF 5) to oversee the works in relation to tree protection measures during critical stages of construction. The Project Arborist is to ensure all trees identified for retention are retained with tree protection measures consistent with the Australian Standard AS4970-2009 Protection of Trees on Development Sites.
- 4.19 Activities generally excluded from the Tree Protection Zone, but not limited to:
- Machine excavation, trenching, material storage, prepare chemicals or cement, park, refuel, dump waste, wash down, fill or change soil level.
- 4.20 Design, locate and install underground services to minimise or prevent tree root damage in accordance with Australian Standard AS 4970-2009: Protection of Trees on Development Sites.
- 4.21 Undertake the removal of trees as shown on the approved plan in a manner so as to prevent damage to those trees that are to be retained.
- 4.22 Implement and adhere to the approved Construction Environmental Management Plan. The CEMP must be kept on site from the commencement and for the duration of the proposed works, and must be available to Council officers upon request.
- 4.23 Implement and undertake all works in accordance with the approved Acid Sulfate Soil Management Plan.
- 4.24 Undertake remediation works in accordance with the approved amended Remediation Action Plan (Stantec, 16 September 2024).

- 4.25 Immediately notify the Council of any new information which comes to light during works which has the potential to alter previous conclusions about site contamination and remediation.
- 4.26 Immediately notify Council of any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination and remediation.
- 4.27 Undertake any demolition involving asbestos in accordance with the *Work Health and Safety Act 2011*.

The person having the benefit of this consent must ensure that the removal of:

- a. more than 10m<sup>2</sup> of non-friable asbestos or asbestos containing material is carried out by a licensed non-friable (Class B) or a friable (Class A) asbestos removalist, and
- b. friable asbestos of any quantity is removed by a licensed removalist with a friable (Class A) asbestos removal licence.

The licensed asbestos removalist must give notice to the regulator before work commences in accordance with Clause 466 of the *Work Health and Safety Regulation 2017*.

- 4.28 A notice of completion of remediation work must be provided to council within 30 days of the completion of remediation work. The notice must include particulars as specified by clause 4.15 of *State Environment Planning Policy No 55 (Resilience and Hazards) 2021*.
- 4.29 Implement all soil and water management control measures and undertake works in accordance with the approved Soil and Water Management Plan. Update the plan as required during all stages of the construction or in accordance with the '*Blue Book*' (*Managing Urban Stormwater: Soils and Construction, Landcom, 2004*).
- 4.30 Implement dust suppression measures on-site during bulk earthworks to suppress dust generated by vehicles and equipment. Dust must also be suppressed at all other stages of construction in order to comply with the *Protection of the Environment Operations Act 1997*.
- 4.31 The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:

7.00 am and 5.00 pm on Monday to Saturday

The principal certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Note: Any variation to the hours of work requires Council's approval.

- 4.32 Implement all recommended actions in accordance with the approved Unexpected Finds Protocol.
- 4.33 Classify all excavated material from the site in accordance with *NSW EPA (2014) Waste Classification Guidelines* prior to re-use or disposal. All excavated material to be disposed of to an approved waste management facility, and receipts of the disposal must be kept on-site.

## 5. PRIOR TO ISSUE OF A SUBDIVISION CERTIFICATE

- 5.1. All conditions under this section must be met prior to the issue of a Subdivision Certificate.
- 5.2 Prior to the issue of the first subdivision certificate, the Applicant must enter into a planning agreement with the Minister for Planning in the terms of the offer made to the Minister by the Applicant in the connection with DA/161/2024 by letter dated 8 December 2022 contained in the Letter of Offer and as amended by the exhibited  
State Voluntary Planning Agreement.
- 5.3 Prior to the issue of the first subdivision certificate completion of the works outlined in the Local VPA dated 21 June 2023.
- 5.4 Submit details to Council/Principal Certifier that demonstrate the completion of all works and implementation of any plans required under Development Consent No 161/2024.
- 5.5 Complete construction of all subdivision works covered by the Subdivision Works Certificate(s) relevant to the the Subdivision Certificate being sought. Completion of works includes the submission and acceptance by Council of all work as executed drawings plus other construction compliance documentation and payment of a maintenance/defects bond to Council in accordance with Council's adopted fees and charges.
- 5.6 Submit to the Council / Principal Certifier certification prepared by a Registered Surveyor certifying that all construction has been affected within the appropriate property, easement boundaries and rights of carriageway. The certification must be accompanied by a copy of the proposed subdivision plan, with the distances from the boundaries to the edges of these structures endorsed in red and signed by the surveyor.
- 5.7 Construct any additional civil works, where required by Council, to ensure satisfactory transitions to existing site formations and pavements where designs contained in the

Roads Act Works Approval and/or the Subdivision Works Certificate do not adequately address transition works.

- 5.8 Repair any damage to Council's infrastructure and the road reserve as agreed with Council. Damage not shown in the dilapidation report submitted to Council before the development works had commenced will be assumed to have been caused by the development works unless the Developer can prove otherwise.
- 5.9 Achieve a minimum of 95% standard compaction for all lots filled in accordance with Australian Standard AS 1289: *Methods of testing soils for engineering purposes*. Certification by a practising Geotechnical Engineer that all lot fill has been inspected and tested to Level 1 Inspection and Testing requirements of AS 3798: *Guidelines on earthworks for Commercial and Residential Developments* and the minimum compaction has been achieved is to be provided to Council / Principal Certifier.
- 5.10 Complete construction of all works within the road reserve in accordance with the Roads Act Works Approval. Completion of works includes the submission and acceptance by Council of all work as executed drawings plus other construction compliance documentation and payment of a maintenance/defects bond to Council in accordance with Council's Fees and Charges.
- 5.11 Obtain the Section 307 Certificate of Compliance under the Water Management Act 2000 for water and sewer requirements relevant to the the Subdivision Certificate being sought from Central Coast Council as the Water Supply Authority, prior to issue of the Subdivision Certificate.

All water supply and sewer works for the development must be completed and all other conditions of the Section 306 letter satisfied. Completion of works includes the submission and acceptance by Council of all work as executed drawings plus other construction compliance documentation and payment of a maintenance / defects bond to Council in accordance with Council's adopted fees and charges.

- 5.12 Submit to Council written confirmation from the relevant service authorities that satisfactory arrangements have been made for the provision of the following services to each lot where available:

- Telecommunications / national broadband network (NBN)
- electricity supply

Provide documentation that demonstrates that provision for gas supply to all lots.

- 5.13 Show on the plan of subdivision at no cost to Council the dedication of road reserve to Council resulting from a 5.0 metres x 5.0 metres splay corner on all proposed lots located at road intersections.
- 5.14 Show on the plan of subdivision the dedication to Council of proposed lot 301 and Easement (D) (part Lot 70) as drainage reserve. Easement (D) is to be excised from Lot 1 DP1310973 to create a drainage reserve of some 8742m<sup>2</sup> under exempt



development pursuant to clause 2.75(f) of the Codes SEPP. The dedication must be at no cost to Council.

5.15 Include on the Deposited Plan (DP) an Instrument under the *Conveyancing Act 1919* for the following restrictive covenants; with Council having the benefit of these covenants and having sole authority to release and modify. Wherever possible, the extent of land affected by these covenants must be defined by bearings and distances shown on the plan. The plan and instrument must:

- a) Create a 'Restriction on the use of Land' over all lots containing an on-site stormwater detention system restricting any alterations to such a facility or the erection of any structure over the facility or the placement of any obstruction over the facility.
- b) Create a 'Restriction on the use of Land' over all lots containing a nutrient / pollution control facility restricting any alteration to such a facility or the erection of any structure over the facility or the replacement of any obstruction over the facility.
- c) Create an easement to drain water 1.5 metre wide as indicated on the approved plans.
- d) Create a 'Restriction on the use of Land' over all lots affected by a secondary flow path to ensure:
  - (i) The shape of the flow path is not altered.
  - (ii) No structures are erected within the flow path, excluding fences that are flood compatible.
  - (iii) The minimum floor level of any dwelling is defined by a reduced level related to Australian Height Datum (AHD) must be 500mm above the 1% Annual Exceedance Probability (AEP) flood level.
- e) Create a right of access and an easement for services as indicated on the approved plans.
- f) Create an easement in gross over lot PT 70 for the conveyance of stormwater.

Note: Standard wording, acceptable to Council, for covenants can be obtained by contacting Council Subdivision Certificate Officer.

5.16 Include on the Deposited Plan (DP) a positive covenant by the registered proprietor in favour of Council pursuant to the *Conveyancing Act 1919* establishing the following with the authority empowered to release, vary or modify the positive covenant is Central Coast Council.

- a) Ensure on any lot containing an on-site stormwater detention system that:
  - (i) the facility will remain in place and fully operational

- (ii) the facility is maintained so that it operates in a safe and efficient manner
  - (iii) Council staff is permitted to inspect and repair the facility at the owner's cost
  - (iv) Council is indemnified against all claims of compensation caused by the facility
- b) Ensure on any lot containing a nutrient/pollution control facility that:
  - (i) the facility will remain in place and fully operational
  - (ii) the facility is maintained so that it operates in a safe and efficient manner
  - (iii) Council staff is permitted to inspect and repair the facility at the owner's cost
  - (iv) Council is indemnified against all claims of compensation caused by the facility

Note: Standard wording, acceptable to Council, for covenants can be obtained by contacting Council Subdivision Certificate Officer.

- 5.17 Submit to Council a "Pre-Opening" stage Road Safety Audit prepared by an Audit team of a minimum Level 3 and Level 2 Road Safety Auditor registered on the NSW Register of Road Safety Auditors. No recommendations are to be made in the Road Safety Audit to address any identified deficiencies. Resolutions of the identified deficiencies are to be carried out in consultation with Council with sign off of the Corrective Actions by Council. Any works required as a result of the signed off Corrective Actions are to be satisfactorily completed and accepted by Council prior to issue of the Subdivision Certificate.
- 5.18 Include on the Deposited Plan (DP) of subdivision the following:
  - a. Dedication to Council of all roads as public road to the boundary of adjoining sites under the Roads Act 1993.
- 5.19 Provide a report to Council prepared by a practising Geotechnical Engineer classifying each of the proposed and completed lots in accordance with AS 2870: *Residential Slabs and Footings*, prior to issue of a Subdivision Certificate.
- 5.20 Submit, and have approved, an application for a Subdivision Certificate to Council / Principal Certifier. The Subdivision Certificate application is to satisfy all of the requirements of the *Environmental Planning and Assessment Regulation 2000*.
- 5.21 Prepare and submit a final certification report detailing the level of compliance for each stage of the development. The report with all conditions relating to ecology/trees must be prepared by the engaged Ecologist and forwarded to Council for review.
- 5.22 Install permanent bushland boundary fencing and signage as detailed in the approved Biodiversity Management Plan (BMP), by Wedgetail Version 3.0 dated 7 November

2024. No barbed wire is to be used for the fencing, and any existing barbed wire is to be removed. This fencing is to be maintained in perpetuity.

- 5.23 Implement the Biodiversity Management Plan (BMP), by Wedgetail Version 3.0 dated 7 November 2024, approved by NSW DCCEEW in association with the Bio certification Order. All mitigation measures identified in the Biodiversity Certification Assessment Report (BCAR), by Kleinfelder, Ver 7.0, dated 09 December 2022 are to be fully implemented.
- 5.24 Carry out the landscaping and street tree planting as shown on the approved landscape plan.
- 5.25 Submit a validation report prepared in accordance with consultants reporting on contaminated land, contaminated Land Guidelines (NSW EPA, 2020), that demonstrates whether the land is suitable for its intended use.
- 5.26 Before the issue of a Subdivision Certificate, the applicant must pay the total contribution payable to Council under this condition. The total contributions are \$5,051,234.80 as calculated at the date of this consent, in accordance with the Voluntary Planning Agreement (VPA) dated 21 June 2023.

The full list of itemised contributions is described in the table below.

Northern Districts Open Space & Recreation	\$1,695,429.05
Northern Districts Community Facilities	\$ 418,017.09
Northern Districts Administration	\$ 122,947.53
Northern Districts Traffic and Transport	\$2,814,841.14
<b>TOTAL</b>	<b>\$5,051,234.80</b>

The total amount payable may be adjusted at the time the payment is made, in accordance with the provisions of the abovementioned Voluntary Planning Agreement.

As per Clause 4.1 of the Voluntary Planning Agreement, if a revised Northern Districts Section 7.11 Plan is adopted by Council prior to the issue of the relevant Subdivision Certificate for the Final Lot (as defined by the VPA), the contributions payable will be the residential lot contribution rate in the adopted Plan, indexed and multiplied by the relevant number of lots.

- 5.27 Before the issue of a Subdivision Certificate, the applicant must pay the total contribution payable to Council under this condition. The total contributions are \$494,865.34 as calculated at the date of this consent, in accordance with the Voluntary Planning Agreement (VPA) dated 21 June 2023.

The full list of itemised contributions, is described in the table below.

Shire Wide Administration	\$ 37,869.68
Shire Wide Cycleway Network	\$ 174,781.42
Shire Wide Regional Open Space	\$ 84,997.26
Shire Wide Performing Arts & Public Art	\$ 197,216.98
<b>TOTAL</b>	<b>\$ 494,865.34</b>

The total amount payable may be adjusted at the time the payment is made, in accordance with the provisions of the abovementioned Voluntary Planning Agreement.

As per Clause 4.1 of the Voluntary Planning Agreement, if a revised Northern Districts Section 7.11 Plan is adopted by Council prior to the issue of the relevant Subdivision Certificate for the Final Lot (as defined by the VPA), the contributions payable will be the residential lot contribution rate in the adopted Plan, indexed and multiplied by the relevant number of lots.

- 5.28 Provide a Validation Report, prepared by a suitably qualified contaminated land consultant that is accredited by the Certified Environmental Practitioners Scheme-Site Contamination (CEnvP(SC)) and/or the Certified Professional Soil Scientist-Contaminated Site Assessment and Manager (CPSS CSAM). Such investigation must be undertaken in accordance with Managing Land Contamination – Planning Guidelines SEPP 55 – Remediation of Land (1998) and NSW Environment Protection Authority’s Contaminated Land Guidelines - Consultants Reporting on Contaminated Land 2020 and Contaminated Sites – Sampling Design Guidelines (2022) and the National Environment Protection (Assessment of Site Contamination) Measure (ASC NEPM, 1999 as amended 2013)
- 5.29 No dwelling shall be erected or permitted to remain on Lots 184-213 unless it is designed and constructed in accordance with the recommendations contained in the Noise Intrusion Report by Day Design Pty Ltd, dated 13/11/23.

Prior to the issuing of any occupation certificate an independent, suitably qualified and currently practising acoustic consultant who is a member of the Association of Australasian Acoustical Consultants must provide an acoustic compliance certificate to the Principal Certifying Authority, which demonstrates that the construction of the dwelling attenuates any noise to the following criteria;

- (a) in any bedroom in the residential accommodation to no more than 45 dB(A) at any time between 10.00 pm and 7.00 am,
  - (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway) to no more than 50 dB(A) at any time.
- 5.30 Prior to the release of the final Subdivision Certificate, a report on the progress of the implementation of the Biodiversity Management Plan and the Biodiversity Conservation Agreement is to be prepared and submitted to Council.

## 6.ONGOING

- 6.1. The "Avoided and Conservation Land" specified in the Bio certification Order is to be maintained in perpetuity as a wildlife corridor in accordance with the Bio certification approval. Bushland corridor boundary fences and signage are to be maintained in perpetuity. Weeds must be continually suppressed and destroyed, and the land must be maintained as an ecologically sensitive area.

## 7.PENALTIES

Failure to comply with this development consent and any condition of this consent may be a ***criminal offence***. Failure to comply with other environmental laws may also be a ***criminal offence***.

Where there is any breach Council may without any further warning:

- Issue Penalty Infringement Notices (On-the-spot fines);
- Issue notices and orders;
- Prosecute any person breaching this consent, and/or
- Seek injunctions/orders before the courts to retain and remedy any breach.

### **Warnings as to Potential Maximum Penalties**

Maximum Penalties under NSW Environmental Laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.